

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BRETT DANIELS, an individual; and
BRETT DANIELS PRODUCTIONS,
INC., a Wisconsin corporation,

Plaintiffs,

v.

SIMON PAINTER, an individual;
TIMOTHY LAWSON, an individual;
INTERNATIONAL SPECIAL
ATTRACTIONS, LTD., a Colorado
corporation; TML ENTERPRISES, PTY,
LTD., an Australian corporation; ASIA
LIVE NETWORK, PTE, LTD.,
a Singaporean corporation; and THE
WORKS ENTERTAINMENT, INC., a
Nevada corporation,

Defendants.

CASE NO. 2:15-cv-01334-pp

**PLAINTIFFS BRETT DANIELS' AND BRETT DANIELS PRODUCTIONS, INC.'S
MOTION FOR LEAVE TO FILE SURREPLY MEMORANDUM IN OPPOSITION TO
DEFENDANT PAINTER'S SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO
DISMISS, TO TRANSFER, OR TO STAY AND RESPONSE TO PAINTER'S
SUPPLEMENTAL BRIEF IN SUPPORT OF SAME**

Plaintiffs Brett Daniels (“Daniels”) and Brett Daniels Productions, Inc. (“BDPI”) respectfully request the Court’s leave to file the attached surreply in opposition to Defendant Simon Painter’s (“Painter”) Motion to Dismiss, Transfer, or Stay (“Motion,” Dkt. 14) and Painter’s Supplemental Brief filed in support of same (“Supplemental Brief,” Dkt. 35-1).

Plaintiffs’ motion is made pursuant to Local Rule 7(i) because Defendants’ Supplemental Brief was only recently filed (on February 12, 2016) and contains newly raised facts and legal arguments. Specifically, the Supplemental Brief sets forth a new motion to dismiss for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1) pertaining to the alleged arbitrability of this case, which Plaintiffs have not had an opportunity to respond to.

Further, new information dispositive to the Court’s decision has become available (specifically, the recently announced Wisconsin production of the *Illusionists*) which was not available (and did not exist) when Plaintiffs filed their opposition brief on January 8, 2016.

The Court has discretion pursuant to its power to control the proceedings to grant leave to file a surreply or to otherwise respond to new information and pleadings. A surreply is appropriate where new information relevant to the court’s decision on a motion has come to light after the parties have filed all papers authorized under the rules, or where a party has not had any opportunity to respond to an argument made for the first time in the last permitted paper. Both tests are met here.

WHEREFORE, Plaintiffs’ request leave to file the surreply brief attached hereto as **Exhibit A**.

DATED: February 23, 2016

GREENBERG TRAURIG, LLP

By /s/ Tyler R. Andrews
Tyler R. Andrews
Attorneys for Defendants, BRETT
DANIELS and BRETT DANIELS
PRODUCTIONS, INC.

CERTIFICATE OF SERVICE

I, Tyler R. Andrews, an attorney, hereby certify that on February 23, 2016, I caused a complete and accurate copy of the foregoing document to be served via this Court's ECM/ECF notification system, which will serve electronically to all participants in the case.

/s/ Tyler R. Andrews